THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, the 14th day of June,2007

W.P.No.20241 of 2005

Between:-

Praga Casual Workers Union,
Balanagar, Kavadiguda Divn., (PCWU),
rep. by its General Secretary
Mohd. Naimulla Khan … Petitioner

and

The Chairman, Industrial Tribunal-I,
Hyderabad, Chandravihar Building,
1st Floor, M.J. Road, Hyerabad
and another …
Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to Award dated 30-12-2003 made in I.D.No.10 of 2000 on the file of Industrial Tribunal-I, Hyderabad and to quash the same as arbitrary and illegal and consequently to direct the 2nd respondent to regularize the services of the members of the petitioner-Union with all consequential benefits.

Petitioner is Praga Tools Casual Workers Union, represented by its General Secretary. Respondent No.2 is the Management of Praga Tools Limited. It appears, members of the petitioner-union (numbering more than 100) were working under the control of the 2nd respondent for the last more than 15 years (as on the date of filing of the Writ Petition). It is their contention that the 2nd respondent, with a view to give artificial breaks did not allow all the casual labour to work continuously and to complete 240 days of service. Therefore, they have raised a dispute and ultimately, the same was referred to Industrial Tribunal-I, Hyderabad for adjudication of the following issue:

> "Whether the Praga Tools Casual Workers Union Regd.No.A-2271/95 is justified in demanding the regularization of services of casual labourers as per Annexure-I in Praga Tools Ltd., Secunderabad. If not, to what relief the casual workers are entitled ?"

Before the Industrial Tribunal, on behalf of the petitioner, W.Ws.1 and 2 were examined and documents Exs.W1 to W15 were marked.

On behalf of the respondent-Management, M.W.1 was examined and Exs.M1 to M7 were marked. After a detailed consideration of both oral and documentary evidence, the Tribunal came to the conclusion that the financial position of the respondent-organization is such that it cannot permit to employ persons on regular basis or on temporary basis. Further, it is admitted that the petitioner has not obtained the consent of the BIFR for proceeding with the case. It is also noticed by the Tribunal that under similar circumstances, the demand raised by another Union of casual employees of the respondent-company in I.D.No.19 of 2000 seeking absorption on regular basis was dismissed on 26-3-2002. Therefore, the Tribunal held that the petitioner-union is not justified in demanding regularization of services of casual labour as per Annexure-I in Praga Tools Limited, Secunderabad. Aggrieved by the same, the present Writ Petition is filed.

Sri A.K. Jayaprakash Rao, learned counsel for the petitioner, strenuously contended that the members of the petitioner-union are working as casual labour for the last more than 15 years continuously and they are entitled for regularization of their services. A model employer like Praga Tools Limited cannot engage persons for long years on casual basis without regularizing their services. This is nothing but unfair labour practice and it is not expected of a model employer. Neither any scheme is evolved nor the services of the members of the petitioner-union are regularized in any suitable cadre of Praga Tools Limited, Secunderabad. The Tribunal failed to notice that the members of the petitioner-union worked for more than 15 years and, therefore, they are automatically entitled for regularization of their services.

Whereas, Ms. G.Sudha, learned counsel for the respondent, supported the Award passed by the Tribunal and submitted that the

Tribunal has not committed any error calling for interference of this Court under Article 226 of the Constitution of India. Regularization of casual employees does not arise, as they are engaged as and when the work is available and as per the requirements of Praga Tools Limited. The casual employees have no right whatsoever for seeking regularization of their services. Firstly, there should be some sanctioned posts and secondly, the financial position of Praga Tools Limited should permit the same. In this case, there are neither any sanctioned posts nor the financial position is, as such, enable the Praga Tools Limited to absorb the members of the petitioner-union on regular basis.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the impugned Award and other material made available on record.

At the outset, I am of the opinion that the Tribunal has not committed any error calling for interference of this Court under Article 226 of the Constitution of India. No error apparent on the face of record or any illegality or infirmity committed by the Tribunal is brought to the notice of this Court, except saying that since the members of the petitioner-union are working for the last more than 15 years, they are entitled for regularization of their services automatically. The Tribunal has considered the financial position of the company and came to the conclusion that it may not be possible for the respondent-company to regularize the services of the petitioner-union *en bloc.* Therefore, no interference can be made by this Court with the impugned Award.

Be that as it may, it is not in dispute that the members of the petitioner-union are working for the last more than 15 years, either intermittently or with artificial breaks and they are being engaged by

the company for the purpose of attending to its works. Under those circumstances, I am of the opinion that a model employer cannot keep its employees, whether casual or daily wage, to lurch in uncertainty as to their service conditions. Therefore, the respondent-Management is directed to consider framing of a Scheme for the purpose of absorbing the members of the petitioner-union on regular basis, after obtaining suitable directions from the appropriate authority and as per the needs of the company.

Subject to the above observations, the Writ Petition is dismissed. No order as to costs.

14-6-2007

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